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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/627,619	07/28/2003	William Grant Grovenburg	10030630-1	4323

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AGILENT TECHNOLOGIES INC.

INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.

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EXAMINER

YUEN, KAN

ART UNIT

PAPER NUMBER

2464

NOTIFICATION DATE

DELIVERY MODE

12/08/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

Office Action Summary**Application No.**

10/627,619

Applicant(s)

GROVENBURG, WILLIAM GRANT

Examiner

KAN YUEN

Art Unit

2464

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 November 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 3,6-8,11,14,17 and 18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3,6,11 and 14 is/are rejected.
- 7) ☒ Claim(s) 7,8,17 and 18 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB06)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ ~~Notes of Informal Patent Application~~
- 6) ☐ Other: _____

Response to Arguments

Allowable Subject Matter Withdrawal

1. The allowable subject matter of claims 3 and 11 indicated in the previous office action has been withdrawn.

Claim Objections

2. Claims 3, 6-8, 11, 14, 17 and 18 are objected to because of the following informalities:

In claim 3, in line 15, the phrase "try to identify" does not considered as a positive limitation, because the term "try to" is considered vague and indefinite. The Examiner does not know whether each NA is performing the identification or not.

Similar problem exists in claim 7, 11 and 17. Appropriate correction is required.

Claim Rejections - 35 USC § 103

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 3, 6, 11 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bearden et al. (Pub No.: 2004/0062204), in view of Foti (Pat No.: 6839323).

For claim 3, Bearden et al. disclosed the method comprising:

transmitting a respective command from a network troubleshooting center (NTC) (Bearden et al. fig. 1, Testing Server 104) to a plurality of network analyzers (NAs) (Bearden et al. fig. 1, endpoint devices 102) monitoring communication lines through which Voice-over-Internet Protocol (VoIP) data streams are transmitted (Bearden et al. paragraphs 0032-0040, 0051). The devices 102 respond to commands or requests from the testing server 104 to participate in test calls for the purpose of VOIP monitoring and analysis in system 100, wherein the system comprises an internet network 106; and
after receiving the command, collecting quality of service data by the NAs for data streams associated with a telephone call having the command as a source or destination and transmitted through the communication lines, and providing quality of service information by the NAs to the NTC based on the collected quality of service data (Bearden et al. paragraphs 0032). After receiving requests from testing server 104, the endpoints 102 may synthesize a call, measure QoS parameters such as jitter, loss and delay associated with the call, and report the results back to the testing server 104;

before the step of collecting quality of service data, the step of:

after receipt of the input command, monitoring call control information by each NA on the corresponding communication line in accordance with the command to try to identify a data stream associated with a telephone call having the command as a source or destination (Bearden et al. see paragraphs 0051-0055, fig. 3). Upon receiving one or more test commands by the end devices, a given endpoint device attempts to carry out the commands. When attempting to carry out a command to generate a synthetic call, the endpoint device typically performs a call setup with a destination device using RTP. During call, the measurement and collection may be performed in compliance with RTCP. Although only one endpoint device is carrying out the commands, however it is obvious to a person of ordinary skill in the art at the time of the invention to have other endpoint devices be in part of the test to carry out the commands as well e.g., paragraph 0051, which states: "For example, the telephony server may determine desirable times, duration, and codec settings for the test, as well as the particular devices that will place synthetic calls as part of the test."

However, Bearden et al. did not explicitly disclose the features of transmitting information indicating a respective telephone number; transmitting, by a first NA of the NAs to identify the data stream, identifying information of the identified data stream to the NTC; and after receipt of the transmitted identifying information, communicating between the NTC and the NAs so that each NA has the identifying information.

Foti from the same or similar fields of endeavor disclosed the features of transmitting information indicating a respective telephone number (Foti see column 4,

lines 35-40). The gatekeeper sends a monitor query message to the monitoring station. The monitor query message includes the H.245 source address and the H.245 destination address for the call, if available, as well as subscriber addressing information and the unique Call ID (telephone number);

transmitting, by a first NA of the NAs (fig 1, monitoring station, access routers) to identify the data stream, identifying information (reply message) of the identified data stream to the NTC (see column 1, lines 45-67). Sending a query message from the gatekeeper to the monitoring station asking whether the mobile terminal (MT) is to be monitored, and sending a reply message from the monitoring station to the gateway gatekeeper indicating that the MT is to be monitored, where the reply message is broadly interpreted as the identifying information; and

after receipt of the transmitted identifying information, communicating between the NTC and the NAs so that each NA has the identifying information (see column 1, lines 45-67). After receiving the reply message from the monitoring station, the gatekeeper sends a monitoring request (reply message) to the access router associated with the monitored mobile terminal (MT), the request identifying the MT to be monitored, instructing the access router to monitor the MT that is associated with the call to be monitored. Thus, the gatekeeper, monitoring station and the access router all has the identifying information.

Thus, it would have been obvious to the person of ordinary skill in the art at the time of the invention to use the features as taught by Foti in the network of Bearden et

al. The motivation for using the features being that it provides transmission efficiency in the network.

Regarding claim 6, Bearden et al. disclosed the feature wherein the telephone call is based on Session Initialization Protocol (SIP) (Bearden et al. see paragraphs 0043).

Claim 11 is rejected similar to claim 3.

Claim 14 is rejected similar to claim 6.

Allowable Subject Matter

6. Claims 7, 8, 17 and 18 would be allowable if rewritten to overcome the objection, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAN YUEN whose telephone number is (571)270-1413. The examiner can normally be reached on Monday-Friday 10:00a.m-3:00p.m EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky O. Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kan Yuen/
Examiner, Art Unit 2464

/Ricky Ngo/
Supervisory Patent Examiner, Art
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KY